

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant: PARK, Won-Pyo

Group Art Unit: 2614

Serial No.: 10/757,899

Examiner: Ramakrishnaiah, Melur

Filed: January 14, 2004

Docket: 678-1167 (P10780)

For: **SYSTEM AND METHOD FOR STORING DATA
OF MOBILE COMMUNICATION TERMINAL**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Sir:

In response to the Examiner's Answer mailed August 20, 2007, Appellants respectfully submit that based on at least the arguments provided in the Appeal Brief of May 14, 2007, Claims 1-14 are patentable over the applied references. The following comments are respectfully submitted in order to address statements made in the Examiner's Answer.

First, with respect to the Appellants' argument that Claim 1 recites transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet, while in contrast, *Makishima* does not disclose or fairly suggest transmitting image data in real time, and *Obradovich* only discloses synchronizing image data with audio data in real time, in the bridging paragraph of pages 10-11 of the Examiner's Answer, the Examiner reiterated the rejection of Claim 1 that was made in the Office Action. Further, in the first full paragraph of page 11 of the Examiner's Answer, the Examiner alleged that, "Appellant statement that *Obradovich* only discloses synchronizing image

data with audio data in real time is clearly wrong and a misreading of the reference.” The Examiner further stated that, “Obradovich actually teaches: camera (460, fig. 13) may also transmit digital images synchronized with audio data to provide real-time audio/visual data (lines 5-7 of paragraph [0082]), not as misread by the appellant as: synchronizing image data with audio data in real time.” The Examiner continues, “Synchronization of audio/image takes place to provide real time audio/visual data for transmission in real time for remote storage.”

While Appellants would agree that lines 5-7 of the cited paragraph recite, *inter alia*, camera (460) may also transmit digital images synchronized with audio data to provide real-time audio/visual data, this is only a fragment of the sentence that is recited here in *Obradovich*. Appellants strongly disagree with the Examiner’s allegation that Appellants have misread the reference, and that synchronization of audio/image takes place in *Obradovich* to provide real time audio/visual data for transmission in real time for remote storage, since *Obradovich* makes absolutely no mention of providing real time audio/visual data for transmission in real time for remote storage.

Instead, it is important to consider the entire sentence in lines 5-8 of this cited paragraph [0082] in *Obradovich*. Particularly, the sentence teaches clearly and unambiguously that the camera may transmit digital images synchronized with audio data to provide real time audio/visual data *or may transmit audio data sequentially with digital images* (emphasis added). In other words, as Appellants discussed in the Appeal Brief, *Obradovich* teaches that digital images are synchronized in real-time with audio data, to provide real-time audio/visual data. This is clear because contrary to that which was stated by the Examiner, *Obradovich* makes no mention of real-time transmission of digital images, as recited in Claim 1. In fact, *Obradovich* makes no mention at all of how, with respect to time, the digital images are transmitted, contrary to the Examiner’s aforementioned allegation in the Examiner’s Answer.

In the cited lines in *Obradovich*, it is clearly stated and taught that the images and audio data are synchronized in real-time. In this manner, for example, the audio data can match the chronology or progression of the digital images. This is clear in *Obradovich* because the

alternative to real-time synchronization, given in that same sentence in aforementioned lines 5-8, is that the camera may transmit audio data sequentially with digital images, or in other words, one after the other, instead of in synchronization. Appellants strongly make this assertion, because this alternative given in the complete sentence recited in lines 5-8 of paragraph [0082] sheds light on the synchronized transmission of audio/digital data as opposed to the sequential transmission of audio/digital data in *Obradovich*. Appellants maintain that *Obradovich* does not teach or even fairly suggest the transfer, in real-time, of image data to a remote file storage device.

Next, in the full paragraph on page 14 of the Examiner's Answer, the Examiner sets out to address Appellants argument that by only alleging that *Obradovich* is "capable" of the real-time transmission of image data recitation in Claim 1, *prima facie* obviousness was not established because the Examiner failed to allege that *Obradovich* teaches transmitting in real time image data generated by the image processing unit to a remotely located file storage device, nor did the Examiner cite any suggestion or motivation in *Obradovich* to do so. The Examiner, in effect, mocked Appellants arguments as "some hair splitting arguments," and the Examiner unfairly and inappropriately concluded that Appellants' argument is tantamount to an attempt to confuse the judge.

Once again, the Examiner incorrectly stretches the teaching in *Obradovich* of, "camera is capable of capturing an image that can then be stored locally or transmitted to the server for storage in a selected profile," to mean that the same teaches real time transmission for storage, because in fact, *Obradovich* makes no mention of the camera image being stored locally or transmitted in real time to a remote server. Accordingly, *Obradovich* never "confirms real time transmission of image data," as the Examiner alleged in the bridging paragraph on pages 14-15 of the Examiner's Answer.

Respectfully, each of rejections discussed in the Appeal Brief, and responded to in the Examiner's Answer, relates to the previously discussed manner in which the transmission of audio/image data takes place in *Obradovich*. The Appellants respectfully maintain that for at

least the foregoing reasons, as well as the reasons set forth in the Appeal Brief, the combination of *Makishima* in view of *Obradovich* fails to teach or suggest transmitting in real time image data generated by the image processing unit to a remotely located file storage device having a memory via the wireless access to the Internet, as recited in Claim 1. Appellants further maintain that Claim 11 recites that the base station transmits in real time image data from the mobile communication terminal to the file storage device, while in contrast, the combination of *Makishima* in view of *Obradovich* and *Fukuda* fails to teach or suggest a base station that transmits in real time image data from the mobile communication terminal to the file storage device.

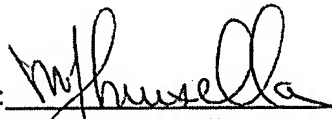
In order for a rejection under 35 U.S.C. §103(a) to be appropriate, the claimed invention must be shown to be obvious in view of the prior art as a whole. A claim may be found to be obvious if it is first shown that all of the recitations of a claim are taught in the prior art or are suggested by the prior art. In re Royka, 490 F.2d 981, 985, 180 U.S.P.Q. 580, 583 (C.C.P.A. 1974), cited in M.P.E.P. §2143.03. Appellants respectfully submit that the cited combination of *Makishima* in view of *Obradovich*, as set forth in the Examiner's §103(a) rejection, fails to teach or fairly suggest transmitting in real time image data generated by the image processing unit to a remotely-located file storage device having a memory via the wireless access to the Internet, as recited in Claim 1.

Furthermore, Appellants respectfully submit that the cited combination of *Makishima* in view of *Obradovich* and *Fukuda*, fails to teach or fairly suggest that the base station transmits in real time image data from the mobile communication terminal to the file storage device, as recited in Claim 11.

The Examiner has failed to show that all of the recitations of Claim 1 and Claim 11 are taught in or fairly suggested by the prior art. The Examiner has failed to make out a *prima facie* case for an obviousness rejection. Thus, independent Claim 1 is not rendered unpatentable over *Makishima* in view of *Obradovich*, and independent Claim 11 is not rendered unpatentable over *Makishima* in view of *Obradovich* and *Fukuda*.

As noted, Claims 2-10 stand or fall together with Claim 1, and Claims 12-14 stand or fall together with Claim 11. Thus, all of Claims 1-14 are believed to be allowable.

Dated: October 18, 2007

By: 
Michael J. Musella
Reg. No.: 39,310
Attorney for Appellants

THE FARRELL LAW FIRM
333 Earle Ovington Blvd., Suite 701
Uniondale, New York 11553
(516) 228-3565 (tel)
(516) 228-8475 (fax)

PJF/RCC/dr